IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 399 of 2005

Between:

G. Sunitha, W/o. Sudheer Babu,
R/o. Inkollu, Prakasam District.

..... PETITIONER

AND

1 The Joint Collector, Ongole, Prakasam District.
2 The Revenue Divisional Officer, Ongole, Prakasam District.
3 The Mandal Revenue Officer, Inkollu, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of MANDAMUS declaring the action of the 1st respondent in not granting the interim orders of stay of operation of the orders of the 2nd respondent dt. 23-12-04 in Rc.C/1652/2004 and in not allowing me to continue as Fair Price Shop Dealer pending disposal of the appeal is illegal, arbitrary, unreasonable against the principle of natural justice and consequently direct the respondents to continue the petitioners as Fair Price Shop Dealer of Inkollu Village pending disposal of the appeal and pass such other order or orders.

Counsel for the Petitioners: MR.T.RAJENDRA PRASAD

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

Petitioner was appointed as a fair price shop dealer in the year 1998. She was issued a show cause notice dated 22.11.2004 framing as many as six charges and was directed to explain as to why her dealership should not be “dissolved”. The petitioner submitted her explanation on 11.12.2004. On a consideration of the same, the second respondent suspended the authorization of the petitioner, through order dated 23.12.2004. Aggrieved thereby, she preferred an appeal before the first respondent. She also filed an application for grant of stay. The first respondent passed an order dated 10.01.2005 rejecting the application for stay. Hence, this writ petition.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

The petitioner availed the remedy of appeal, aggrieved by the order of suspension dated 23.12.2004. The only ground on which the first respondent rejected the application for stay is; the charges levelled against F.P. shop dealer/appellant requires detailed enquiry. It is true that the appellate authority is not required to furnish detailed reasons while disposing of the application for stay. However, rejection of the same on the ground, such as the one mentioned above does not accord with the proper exercise of power.

One important aspect that needs to be considered in this writ petition is that the petitioner was issued a show cause notice directing her to explain as to why the dealership shall not be “dissolved”. Obviously, the show cause notice was

for cancellation of the dealership. After the petitioner submitted her explanation, and on a consideration of the same, the second respondent has chosen to suspend her authorization. Further, the suspension is ordered pending enquiry. There is a clear contradiction in terms in the very exercise of power. When the second respondent has chosen to issue a show cause notice for a definite purpose and the petitioner had submitted her explanation, the question of suspending her authorization pending enquiry does not arise.

The nature of charges framed against the petitioner are not so serious as warranting the suspension. For example, charge No.5 is to the effect that she is not making 'Tom-Tom' in the village on receipt of essential commodities. Charge No.1 is to the effect that she is distributing the essential commodities only three days in a month. Charge No.6 is to the effect that she got married and left the village, whereas in charges No.2,3 and 4 she is accused of collecting higher rates for the essential commodities. There is a self-contradiction. The petitioner categorically stated that she got married even by the time she was appointed as a fair price shop dealer.

For the foregoing reasons, this Court is of the view that the order of suspension passed against the petitioner deserves to be stayed pending disposal of the appeal by the first respondent.

Hence, the writ petition is disposed of directing that the order dated 23.12.2004 passed against the petitioner shall remain stayed till the first respondent disposes of the appeal. There shall be no order as to costs.

20.01.2005

ksld

To

1 The Joint Collector, Ongole, Prakasam District.
2 The Revenue Divisional Officer, Ongole, Prakasam District.
3 The Mandal Revenue Officer, Inkollu, Prakasam District.

4 Two C.Cs. to the Government Pleader for Civil Supplies, High Court of A.P., Hyderabad, (OUT).

5 Two C.D. Copies.